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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,014	08/06/2003	Claude Leon Hembert	GER-0276-C	1542

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EXAMINER	
GROSSO, HARRY A	
ART UNIT	PAPER NUMBER
3781	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/636,014	HEMBERT, CLAUDE LEON	
	Examiner	Art Unit	
	Harry A. Grosso	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-9 and 11-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-9 and 11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 09/936,093.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 22, 2007 has been entered.

Claim Objections

Claims 1 and 9 are objected to because of the following informalities: both claim 1 and claim 9 have the phrase "inferior face" in line 8. It appears that this should be "interior face" and will be read as such for the purposes of this action. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-9 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation of "an annular projection disposed completely out of alignment with the wall of the container." This limitation is not described in the original disclosure in such a manner so as to define what is intended by the phrase "completely out of alignment."

Claims 3-9 and 11-20 are dependent on claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3-9, 11-16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hembert, of record, in view of Brissier, of record, and Dorfman (4,867,348)

Regarding claims 1, 4, 9, 12, 18 and 20, Hembert discloses a container composed of a composite material intended to contain a fluid under pressure (column 1, lines 7-12) with a dome end, a connecting piece (6) and a device (column 2, lines 37-51) for protecting the container comprising a shell (22) and a compressible element (23) disposed in an entirety of the space between the shell and the tank (left side of Figure 1).

Hembert does not teach that the device covers the entirety of the dome of the container and a portion of the side wall. Brissier discloses a container with a protective device that covers the entirety of the dome of the container and a portion of the side wall (24, Figure 1, column 3, lines 39-46) with a compressible element disposed in an entirety of the space between the shell and the tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a protective device that covers the entirety of the dome of the container and a

portion of the side wall as disclosed by Brissier in the container disclosed by Hembert to provide protection for the entire dome and adjacent side wall portion against damage.

Hembert and Brissier do not teach an annular projection on the shell. Dorfman discloses a tank with dome ends and a shell (32, Figures 1 and 2, column 5, line 62 to column 6, line 20) having an annular projection delimiting a space between the interior face of the shell and the exterior wall of the container, proximate to a connecting piece and completely out of alignment with the container wall, as best understood. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an annular projection as disclosed by Dorfman in the device disclosed by Hembert and Brissier to allow the container to provide additional protection to the connecting piece and the dome ends from impact. It would have been obvious to fill the entirety of the space between the shell and the tank with the compressible element as taught by Hembert and Brissier, including the annular projection.

The shell of Hembert as modified by Brissier and Dorfman includes a rounded zone defined by the frustoconical wall (72, Figure 2 of Dorfman) of the projection that would delimit a region of greatest volume in the space between the shell and the container wall, the frustoconical wall defining a rounded surface.

Dorfman discloses the shell is made of a thermoplastic resin (column 5, lines 34-36).

2. Regarding claims 5 and 13, Hembert does not teach that the shell has an end corresponding to the side wall of the container, a first wall parallel to an axis of the

container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone. Brissier discloses a device and the shell has an end corresponding to the side wall of the container, a first wall parallel to an axis of the container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a protective device with the shell having an end corresponding to the side wall of the container, a first wall parallel to an axis of the container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone as disclosed by Brissier in the container disclosed by Hembert to provide improved protection for the entire dome and adjacent side wall portion against damage.

3. Regarding claims 3 and 11, Hembert does not disclose the compressible element is an expanded synthetic material. Brissier discloses the compressible element is polyurethane foam (column 3, lines 42-43). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a compressible element of polyurethane foam as disclosed by Brissier in the container disclosed by Hembert to provide a material that is light weight and has known capability to absorb an impact.

4. Regarding claim 7, Hembert discloses the device is removably mounted on the container (column 2, lines37-45).

5. Regarding claims 6 and 14, the container of claims 1 and 9 are disclosed and Hembert further discloses the connecting piece (6) at a top of the dome. Dorfman discloses a connecting piece (18, Figure 1) and the annular ring extends beyond the end of the connecting piece. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an annular ring on the device extending beyond the end of the connecting piece as disclosed by Dorfman to protect the connecting piece.

6. Regarding claims 8 and 16, the device of claims 6 and 14 is disclosed as discussed in the preceding paragraph and Hembert further discloses that the connecting piece is threaded (25) at the free end and the device surrounds the connecting piece so an exterior face of the shell is set back from the end of the connecting piece and a tapped ring (24) is screwed onto the connecting piece to mount the device on the dome (Figure 1, column 2, lines 37-40).

7. Regarding claim 15, the container of claim 14 is disclosed and Hembert further discloses that the device is removably mounted to the container as discussed in the preceding paragraph.

8. Claims 17and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hembert as modified by Brissier and Dorfman in view of Dulisse et al, of record, (Dulisse). Hembert as modified by Brissier and Dorfman discloses the invention except for the thermoplastic resin being acrylonitrile-butadiene-styrene (abs).

Dulisse discloses a pressure tank with a dome end and a shell 42, Figures 4, 5 and 9) that goes over a portion of the dome end and is made from acrylonitrile-butadiene-styrene (abs) (column 4, lines 40-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a shell 42, Figures 4, 5 and 9) that goes over a portion of the dome end and is made from acrylonitrile-butadiene-styrene as disclosed by Dulisse in the container disclosed in claim 9 because it is known in the art to use abs with containers including pressure tanks for a shell over a portion of the dome end.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3-9 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Stashick
Supervisory Patent Examiner
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